

1979 WL 43154 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 6, 1979

*1 Mr. William T. Putnam
Executive Director
State Budget and Control Board
Post Office Box 12444
Columbia, South Carolina

Dear Mr. Putnam:

You have requested an opinion from this Office as to the constitutionality of the provision of Act No. 194 of 1979, the latest amendment to the Capital Improvements Bond Act, which authorizes the issuance of \$5,000,000 of capital improvement bonds for a Gasohol Development Loan Program subject to certain provisos.

Inasmuch as the legislation has already been enacted, our Office must presume its constitutionality until and unless a court of competent jurisdiction decides otherwise. If, however, an action were brought pursuant to the Uniform Declaratory Judgments Act [[§§ 15-53-10 et seq.](#), [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended], in my opinion, the provision would be declared unconstitutional as violative of [Article X, Section 11 of the South Carolina Constitution](#), which prohibits the credit of the State from being pledged or loaned for the benefit of any individual, company, association or corporation, to the extent that it is interpreted to authorize such a loan to a private source. See, e.g., [Anderson v. Baer](#), 265 S.C. 153, 217 S.E.2d 43 (1975); [Jacobs v. McClain](#), 262 S.C. 425, 205 S.E.2d 172 (1974); cf., [Bauer v. South Carolina Housing Authority](#), 271 S.C. 219, 246 S.E.2d 869 (1978).

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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